



DEPARTMENT OF THE TREASURY

Internal Revenue Service
TE/GE EO Examinations
1100 Commerce Street MC 4920 DAL
Dallas, TX 75242

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

Date: JAN 05 2017

Release Number: 201718037
Release Date: 5/5/2017
UIL Code: 501.03-00

Person to Contact:
Identification Number:
Telephone Number:
In Reply Refer to:

LAST DATE FOR FILING A PETITION
WITH THE TAX COURT: APR 05 20XX

CERTIFIED MAIL – Return Receipt Requested

Dear :

This is a Final Adverse Determination Letter that your exempt status under section 501(c)(3) of the Internal Revenue Code (IRC) is revoked. Recognition of your exemption under IRC section 501(c)(3) is revoked effective January 1, 20XX.

Our adverse determination was made for the following reason(s):

You have not established that you are organized and operated exclusively for an exempt purpose or that you have been engaged primarily in activities that accomplish one or more exempt purposes within the meaning of IRC section 501(c)(3).

You failed to respond to repeated reasonable requests to allow the Internal Revenue Service to examine your organizing documents, receipts, expenditures, or activities as required by the IRC sections 6001 and 6033(a)(1). As such, you failed to meet the organizational and operational requirements for continued exemption under IRC section 501(c)(3).

Contributions to your organization are not deductible under section 170 of the Internal Revenue Code.

You are required to file Federal income tax returns on Form 1120. These returns should be filed with the appropriate Service Center for the year ending December 31, 20xx and for all years thereafter.

Processing of income tax returns and assessment of any taxes due will not be delayed should a petition for declaratory judgment be filed under section 7428 of the Internal Revenue Code.

If you decide to contest this determination in court, you must initiate a suit for declaratory judgment in the United States Tax Court, the United States Claim Court or the District Court of the United States for the District of Columbia before the 91st day after the date this determination was mailed to you. Contact the clerk of the appropriate court for the rules for initiating suits for declaratory judgment.

The Taxpayer Advocate Service (TAS) is an independent organization within the IRS that can help protect your taxpayer rights. We can offer you help if your tax problem is causing a hardship, or you've tried but haven't been able to resolve your problem with the IRS. If you qualify for our assistance, which is always free, we will do everything possible to help you. Visit taxpayeradvocate.irs.gov or call 1-877-777-4778.

We will notify the appropriate State Officials of this action, as required by section 6104(c) of the Internal Revenue Code.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely yours,

Mary A. Epps
Acting Director, Exempt Organizations Examinations

Enclosure:
Publication 892



**Department of the Treasury
Internal Revenue Service
Tax Exempt and Government Entities Division
31 Hopkins Plaza Rm 920
Baltimore, MD 21201**

Date: August 19, 2016

Taxpayer Identification Number:

Form:

Tax year(s) ended:

December 31, 20XX

Person to contact/ ID number:

Contact numbers:

Phone Number:

Fax Number:

Manager's name/ ID number:

Manager's contact number:

Response due date:

July 1, 20XX

Certified Mail - Return Receipt Requested

Dear :

Why you are receiving this letter

We propose to revoke your status as an organization described in section 501(c)(3) of the Internal Revenue Code (Code). Enclosed is our report of examination explaining the proposed action.

What you need to do if you agree

If you agree with our proposal, please sign the enclosed Form 6018, *Consent to Proposed Action – Section 7428*, and return it to the contact person at the address listed above (unless you have already provided us a signed Form 6018). We'll issue a final revocation letter determining that you aren't an organization described in section 501(c)(3).

After we issue the final revocation letter, we'll announce that your organization is no longer eligible for contributions deductible under section 170 of the Code.

If we don't hear from you

If you don't respond to this proposal within 30 calendar days from the date of this letter, we'll issue a final revocation letter. Failing to respond to this proposal will adversely impact your legal standing to seek a declaratory judgment because you failed to exhaust your administrative remedies.

Effect of revocation status

If you receive a final revocation letter, you'll be required to file federal income tax returns for the tax year(s) shown above as well as for subsequent tax years.

What you need to do if you disagree with the proposed revocation

If you disagree with our proposed revocation, you may request a meeting or telephone conference with the supervisor of the IRS contact identified in the heading of this letter. You may also file a protest with the IRS Appeals office by submitting a written request to the contact person at the address listed above within 30 calendar days from the date of this letter. The Appeals office is independent of the Exempt Organizations division and resolves most disputes informally.

For your protest to be valid, it must contain certain specific information including a statement of the facts, the applicable law, and arguments in support of your position. For specific information needed for a valid protest, please refer to page one of the enclosed Publication 892, *How to Appeal an IRS Decision on Tax-Exempt Status*, and page six of the enclosed Publication 3498, *The Examination Process*. Publication 3498 also includes information on your rights as a taxpayer and the IRS collection process. Please note that Fast Track Mediation referred to in Publication 3498 generally doesn't apply after we issue this letter.

You also may request that we refer this matter for technical advice as explained in Publication 892. Please contact the individual identified on the first page of this letter if you are considering requesting technical advice. If we issue a determination letter to you based on a technical advice memorandum issued by the Exempt Organizations Rulings and Agreements office, no further IRS administrative appeal will be available to you.

Contacting the Taxpayer Advocate Office is a taxpayer right

You have the right to contact the office of the Taxpayer Advocate. Their assistance isn't a substitute for established IRS procedures, such as the formal appeals process. The Taxpayer Advocate can't reverse a legally correct tax determination or extend the time you have (fixed by law) to file a petition in a United States court. They can, however, see that a tax matter that hasn't been resolved through normal channels gets prompt and proper handling. You may call toll free 1-877-777-4778 and ask for Taxpayer Advocate assistance. If you prefer, you may contact your local Taxpayer Advocate at:

Internal Revenue Service
Office of the Taxpayer Advocate

For additional information

If you have any questions, please call the contact person at the telephone number shown in the heading of this letter. If you write, please provide a telephone number and the most convenient time to call if we need to contact you.

Thank you for your cooperation.

Sincerely,

Margaret Von Lienen
Director, Exempt Organizations Examinations

Enclosures:
Report of Examination
Form 6018
Publication 892
Publication 3498

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit 1
Name of Taxpayer		Year/Period Ended 20XX12

Date of Notice:

Issues:

Does the organization continue to qualify as an organization exempt from Federal income tax under Section 501(c)(3) of the Internal Revenue Code (IRC)?

Facts:

The organization filed Form 1023 for exemption on September 3, 20XX and was granted exemption within the meaning of Section 501(c)(3) on June 30, 20XX with an effective date of exemption of March 12, 20XX.

The organization was classified as a public charity within the meaning of Section 509(a)(2).

The organization was selected for audit to ensure that the examined organization's activities and operations align with its approved exempt status.

An organization exempt under 501(c)(3) needs to be organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary or educational purposes and to foster national and amateur sports competition.

A correspondence audit for tax year ending December 31, 20XX was opened. During the audit it was determined that the organization's Articles of Incorporation do not meet the organizational test for section 501(c)(3), as the Articles do not contain adequate purpose or dissolution clauses.

The organization was sent Letter 3606 on December 4, 20XX with a response due date of January 1, 20XX, requesting specifics on the organization's activities, finances and a request to amend its Articles of Incorporation. Letter 0000 was mailed January 12, 20XX with a response date of February 12, 20XX. L3844A was mailed Certified with Return Receipt on February 12, 20XX with a response due date of March 12, 20XX.

A subsequent L3606 was mailed on March 8, 20XX with a response due date of April 8, 20XX. A second L3844A was mailed on May 24, 20XX with a response due date of June 24, 20XX.

A message was left for _____ on December 4, 20XX, no response was received. _____ called on February 18, 20XX to inform Agent that information was being faxed. A message was left for _____ on February 8, 20XX and August 8, 20XX, no response was received.

The organization provided a response by fax on February 19, 20XX. The response only contained proof of filing for 990N for tax year ending December 31, 20XX. The organization has not provided a description of its activities or financial data for the year under audit, nor has the organization provided a state approved copy of Articles of Amendment as requested.

Law:

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit 1
Name of Taxpayer		Year/Period Ended 20XX12

IRC §501(c)(3) of the Code provides that an organization organized and operated exclusively for charitable or educational purposes is exempt from Federal income tax, provided no part of its net earnings inures to the benefit of any private shareholder or individual.

Treasury Regulation 1.501(c)(3)-1(a)(1) provides "In order to be exempt as an organization described §501(c)(3) of the Code, the organization must be one that is both organized and operated exclusively for one or more of the purposes specified in that section."

Treasury Regulation 1.501(c)(3)-1(b) states, in part, that an organization is organized exclusively for one or more exempt purposes only if its articles limit the purposes to one or more such exempt purposes and do not expressly empower the organization to engage, other than as an insubstantial part of its activities, in activities which in themselves are not in furtherance of exempt purposes. Articles which expressly empower the organization to engage in other than exempt activities, and other than as an insubstantial part of the activities is not organized exclusively for exempt purposes even if the Articles stated the organization is created for charitable or educational or other exempt purposes.

Treasury Regulation 1.501(c)(3)-1(b)(1)(i) provides that an organization is organized exclusively for one or more exempt purposes only if its articles of organization limit its purposes to one or more exempt purposes and do not expressly empower it to engage, otherwise than as an insubstantial part, in activities which in themselves are not in furtherance of one or more exempt purposes.

Treasury Regulation 1.501(c)(3)-1(c)1 of the Income Tax Regulations states that an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which further one or more of such exempt purposes specified in section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

In *Better Business Bureau v. United States*, 326 U.S. 279-283, (1945), the court held that the existence of a single non-exempt purpose, if substantial in nature, will destroy exemption under section 501(c)(3) regardless of the number or importance of truly exempt purposes. To qualify for exemption under section 501(c)(3), the applicant organization must show (1) that it is organized and operated exclusively for religious, or charitable purposes, (2) that no part of the net earnings inures to the benefit of a private individual or shareholder, and (3) that no substantial part of its activities consists of the dissemination of propaganda or otherwise attempting to influence legislation or engaging in political activity.

In *Harding Hospital, Inc. v. United States*, 505 F.2nd 1068, 1071 (6th Cir. 1974), the court held that an organization has the burden of proof that it satisfies the requirements of the particular exemption statute. The court noted that whether an organization has satisfied the operational test is a question of fact.

Organizations Position

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit 1
Name of Taxpayer		Year/Period Ended 20XX12

The organization has not responded to the above mentioned requests for information and has not provided documentation of its' position.

Governments Position

It is the government's position that the organization should be revoked as it is not organized or operated for exclusively charitable, educational or religious purposes within the meaning of Section 501(c)(3).

The organization has not amended its Articles of Incorporation and filed them with the Secretary of State, therefore it does not meet the organizational test under Section 501(c)(3).

The organization has not provided specific details on its activities or financial data for the year under audit to enable the Service to determine whether the organization's exemption under Section 501(c)(3) should remain in effect.

Conclusion:

Based on the foregoing reasons, the organization does not qualify for exemption under Section 501(c)(3) and should be revoked.